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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (III) Part II—Sec. 3—Sub-Sec. (III)

(संघ राज्यक्षेत्र प्रशासनों को छोड़ कर) केन्द्रीय प्राधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union Territories)

भारत निर्वाचन आयोग

आदेश

नई दिल्ली, 6 नवम्बर, 1980

का० भा० 443 --यतः, निर्वाचन आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचन के लिए 46-गिरिडीह निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री मो० हनीफ० ग्राम कटहरा, टोला अस्तापानी, पो० आ० कटहरा, थाना गोमिया, जिला गिरिडीह, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिए जाने पर भी अपनी उस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः, अब, उक्त अधिनियम का धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री मो० हनीफ० को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कामवाधि के लिए निरहित घोषित करता है।

[सं० बिहार-लो०सं०/46/80(8)]

ELECTION COMMISSION OF INDIA ORDERS

New Delhi, the 6th November, 1980

S.O. 443.—Whereas the Election Commission is satisfied that Shri Md. Hanif A. Vill. Kathara, Tola Asnapani, P.O. Kathara, Thane Gomia, Dist. Giridih a contesting candidate for general election to the House of the People held in January, 1980, from 46-Giridih constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder ;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure ;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Md. Hanif A. to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/46/80(8)]

नई दिल्ली, 17 दिसम्बर, 1980

का० भा० 444 --यतः, निर्वाचन आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचन के लिए 50 जमशेदपुर संसदीय निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री भरविन्द प्रसाद वर्मा, ग्राम हरहरगुट्ट, पो० टाटासगर,

सिंहभूम, बिहार लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा वाञ्छित करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिये जाने पर अपनी उस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या व्यायीचित्य नहीं है ;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री अरविन्द प्रसाद वर्मा को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश को तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० बिहार-लो० सं०/50/80(9)]

New Delhi, the 17th December, 1980

S.O. 444.—Whereas the Election Commission is satisfied that Shri Arbind Prasad Verma, Vill. Harharguti, P.O. Tatanagar, Singhbhum, Bihar, a contesting candidate for general election to the Lok Sabha held in January, 1980, from 50-Jamshedpur parliamentary constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the people Act, 1951, and the Rules made thereunder ;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure ;

Now, therefore, in pursuance of section 10-A of the said Act, the Election Commission hereby declares the said Shri Arbind Prasad Verma to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/50/80(9)]

का० आ० 445 .—यतः, निर्वाचन आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचन के लिए 50-जमशेदपुर संसदीय निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री गौरांग महतो, ग्राम आसंगी, पी० आदित्यपुर, जिला सिंहभूम, बिहार लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा वाञ्छित करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिये जाने पर भी अपनी उस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या व्यायीचित्य नहीं है ;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री गौरांग महतो को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश को तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० बिहार० लो० सं०/50/80(10)]

S.O. 445.—Whereas the Election Commission is satisfied that Shri Gouranga Mahato, vill. Asangi, P.O. Adityapur, District Singhbhum, Bihar, a contesting candidate for general election to the Lok Sabha held in January, 1980, from 50-Jamshedpur parliamentary constituency, has failed to lodge

an account of his election expenses at all as required by the Representation of the people Act, 1951, and the Rules made thereunder ;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure ;

Now, therefore, in pursuance of section 10-A of the said Act, the Election Commission hereby declares the said Shri Gouranga Mahato to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/50/80(10)]

का० आ० 446.—यतः, निर्वाचन आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचन के लिए 50-जमशेदपुर संसदीय निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री रमेश चन्द्र दिगार, ग्राम व पी० कटुशोल (सिंहभूम) बिहार लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा वाञ्छित करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिये जाने पर भी अपनी उस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या व्यायीचित्य नहीं है ;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री रमेश चन्द्र दिगार को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० बिहार-लो० सं०/50/80(11)]

S.O. 446.—Whereas the Election Commission is satisfied that Shri Ramesh Chandra Digar, Vill. and P.O. Katurshol (Singhbhum), Bihar a contesting candidate for general election to the Lok Sabha held in January, 1980, from 50-Jamshedpur parliamentary constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder ;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure ;

Now, therefore, in pursuance of section 10-A of the said Act, the Election Commission hereby declares the said Shri Ramesh Chandra Digar to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/50/80(11)]

का० आ० 447 .—यतः, निर्वाचन आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचन के लिए 50-जमशेदपुर संसदीय निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री शंख दावा, कैलाश धाम बागबेग, जुमशहरी, जमशेदपुर, बिहार लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा वाञ्छित करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् सूचना दिये जाने पर भी अपनी उस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री शंख बाबा को संसद के किसी भी सदन के या किसी राज्य की विधान सभा प्रयत्न विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० बिहार-लो०सं०/50/80(12)]

S.O. 447.—Whereas the Election Commission is satisfied that Shri Shaikh Baba Kailash Dham Bagbera, Jugsalai, Jamshedpur, Bihar, a contesting candidate for general election to the Lok Sabha held in January, 1980, from 50-Jamshedpur Parliamentary constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Shaikh Baba to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/50/80(12)]

का० प्रा० 448 --यतः, निर्वाचन आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए लोक सभा के लिए साधारण निर्वाचन के लिए 50-जमशेदपुर, संसदीय निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री स्वदेश कुमार, रेलवे गेट, जुगसलाई, जमशेदपुर, बिहार लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा वाखिल करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् सूचना दिये जाने पर भी अपनी उस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है, और आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री स्वदेश कुमार को संसद के किसी भी सदन के या किसी राज्य की विधान सभा प्रयत्न विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० बिहार-लो०सं०/50/80-(13)]

S.O. 448.—Whereas the Election Commission is satisfied that Shri Swadesh Kumar, Railway Gate, Jugsalai, Jamshedpur, Bihar, a contesting candidate for general election to the Lok Sabha held in January, 1980 from 50-Jamshedpur Parliamentary Constituency, has failed to lodge an account of his election expenses at all as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Swadesh Kumar to be disqualified for being chosen as,

and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-HP/50/80(13)]

नई दिल्ली, 9 जनवरी, 1981

का० प्रा० 449 :—यतः, निर्वाचन आयोग का समाधान हो गया है कि दिसम्बर, 1977 में हुए त्रिपुरा विधान सभा के लिए साधारण निर्वाचन के लिए 48-कुलाई (अ० ज० जा०) निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री पदम कुमार राखाल कमलाचरा गांव पोस्ट आफिस अम्बसा, उत्तर त्रिपुरा लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा अपेक्षित समय के अन्दर तथा रीति से अपने निर्वाचन व्ययों का लेखा वाखिल करने में असफल रहे हैं।

और यतः, उक्त उम्मीदवार ने, सम्यक् सूचना दिए जाने पर भी, इस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री पदम कुमार राखाल को संसद के किसी भी सदन के या किसी राज्य की विधान सभा/विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० त्रिपुरा-वि०सं०/48/77]

New Delhi, the 9th January, 1981

S.O. 449.—Whereas the Election Commission is satisfied that Shri Padma Kumar Rankhal; Village Kamalachera, Post Office Ambassa, North Tripura a contesting candidate for general election to the Tripura Legislative Assembly held in December, 1977 from 48-Kulai(ST), assembly constituency, has failed to lodge an account of his election expenses within the time and in the manner as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Padma Kumar Rankhal to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TP-LA/48/77]

नई दिल्ली, 15 जनवरी, 1981

का० प्रा० 450 :—यतः, निर्वाचन आयोग का समाधान हो गया है कि जनवरी, 1980 में हुए मनीपुर विधान सभा के लिए साधारण निर्वाचन के लिए 19-पटसोई निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री सेपम इबोहल तुलोहाला, चिन्तान्जी, मनीपुर लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वर्धन बनाए गए नियमों द्वारा अपेक्षित अपने व्ययों का कोई भी लेखा वाखिल करने में असफल रहे हैं;

और यतः, उक्त उम्मीदवार ने, सम्यक् सूचना दिए जाने पर भी, इस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री सेपम इबोहल को संसद के किसी भी सदन के

वा किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए, इस प्रादेश की तारीख से तीन वर्ष की कालावधि के लिए निरहिंत घोषित करता है।

[सं० 76/मजीपुर-वि०सं०/19/80]

प्रादेश से,
एस० सी० जैन, धवर सचिव

ORDERS

New Delhi, the 15th January, 1981

S.O. 450.—Whereas the Election Commission is satisfied that Shri Sapam Ibohah, Tulihal, Changangel, Manipur a contesting candidate for general election to the Manipur Legislative Assembly from 19-Patsol, assembly constituency, held in January, 1980, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder ;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure ;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Sapam Ibohah, to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. 76/MR-LA/19/80]

By order,
S. C. JAIN, Under Secy.

प्रादेश

नई दिल्ली, 6 जनवरी, 1981

क्र० सं० 451—यतः, निर्वाचन आयोग का समाधान हो गया है कि मई, 1980 में हुए तमिलनाडु विधान सभा के लिए साधारण/उप-निर्वाचन के लिए 33-शोलिंगमूर निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री ए० एम० पेरिसामी रेडियर, मारुदलम गांव और पोस्ट, वालाजा तालुक, तमिलनाडु लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्द्वारा बनाए गए नियमों द्वारा प्रवेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में प्रयत्न रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्बन्ध सूचना दिये जाने पर भी अपनी इस असफलता के लिए कोई कारण प्रवेश स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई प्रयोज्य कारण या व्याख्यान नहीं है ;

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री ए० एम० पेरिसामी रेडियर को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस प्रादेश की तारीख से तीन वर्ष की कालावधि के लिए निरहिंत घोषित करता है।

[सं० त०ना०-वि०सं०/33/80(61)]

प्रादेश से,
वी० के० राव, धवर सचिव

ORDER

New Delhi, the 6th January, 1981

S.O. 451.—Whereas the Election Commission is satisfied that Shri A. M. Periasamy Reddiar, Marudalam Village and Post, Wallajah Taluk, Tamil Nadu, a contesting candidate for general election to the Tamil Nadu Legislative Assembly held in May, 1980 from 33-Sholingm constituency, has failed to lodge an account of his election expenses at all as required

by the Representation of the People Act, 1951, and the Rules made thereunder ;

And whereas the said candidate, even after due notice, has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for the failure ;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri A. M. Periasamy Reddiar to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. TN-LA/33/80(61)]

By order,
V. K. RAO, Under Secy.

नई दिल्ली, 8 जनवरी, 1981

क्र० सं० 452—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) द्वारा प्रवक्ष्य शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, मेघालय सरकार के परामर्श से श्री वी० रामाकृष्णन के स्थान पर श्री जे० सी० नामपुरी मेघालय राज्य के मुख्य सचिव तथा समकाल आ्युक्त को उनके कार्य भार सम्भालने की तारीख से अगले अवधियों तक मेघालय राज्य के मुख्य निर्वाचन अधिकारी के रूप में एतद्वारा नामनिर्दिष्ट करता है।

[सं० 154/वि०/80]

New Delhi, the 8th January, 1981

S.O. 452.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India in consultation with the Government of Meghalaya hereby nominates Shri J. C. Nampuri, Chief Secretary and State Vigilance consultation with the Government of Meghalaya hereby nominates Shri V. Ramakrishnan.

[No. 154/MEG/80]

क्र० सं० 453—लोक प्रतिनिधित्व अधिनियम, 1950 (1950 का 43) की धारा 13क की उपधारा (1) द्वारा प्रवक्ष्य शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, हरियाणा सरकार के परामर्श से श्री एस० डी० भाम्बरी के स्थान पर श्री ईश्वर चन्द्र, आई० ए० एस० हरियाणा सरकार के मुख्य सचिव तथा सचिव निर्वाचन विभाग को उनके कार्य भार सम्भालने की तारीख से अगले अवधियों तक हरियाणा राज्य के मुख्य निर्वाचन अधिकारी के रूप में एतद्वारा नामनिर्दिष्ट करता है।

[सं० 154/हृ/80]

प्रादेश से
वी० नागसुब्रमण्यन, सचिव

S.O. 453.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Haryana hereby nominates Shri Ishwar Chandra, I.A.S., Chief Secretary and Secretary to Government, Haryana, Election Department as the Chief Electoral Officer for the State of Haryana with effect from the date he takes over charge and until further orders vice Shri S. D. Bhambri.

[No. 154/HN/80]

By order,
V. NAGASUBRAMANIAN, Secy.

नई दिल्ली, 14 जनवरी, 1981

का० आ० 454.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 की उप-धारा (क) के अनुसरण में, निर्वाचन आयोग, 1980 का निर्वाचन अर्जी सं० 2 में अलाहाबाद उच्च न्यायालय के तारीख 25 नवम्बर, 1980 के निर्णय को इसके द्वारा प्रकाशित करता है।

[नं० 82/30 प्र०/2/80 (इ.वि०)]

अदेश से,
के० गणेशन, सचिव
भारत निर्वाचन आयोग

New Delhi, the 14th January, 1981

S.O. 454.—In pursuance of sub-section (a) of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgments dated the 25th November, 1980 of the High Court of Judicature at Allahabad, in Election Petition No. 2 of 1980.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD CIVIL SIDE

ORIGINAL JURISDICTION

Allahabad, 25th November, 1980

PRESENT :

The Hon'ble Amitav Banerji.....Judge
Election Petition No. 2 of 1980

Ram Dhari Shastri.....Petitioner.
Vs.

Ramayan Rai & others.....Respondents.

BY THE COURT

For the reasons given in my order dated 25-11-1980 allowing the application under Order 6 Rule 16 of the Code of Civil Procedure for the striking off paragraph 9(xiv), 9(xvi) 9(xviii), 9(xix), 10(ii) and (iii), 11(i) and (ii), 12(i) and (ii), 13(i) and 14(i) and (ii) of the Election Petition No. triable cause of action survives. Consequently this Election Petition is liable to be dismissed and is accordingly dismissed Respondent No. 1 will be entitled to his costs, and the counsel's fee is certified at Rs. 300 Dt/25-11-80.

Sd/A.B

IN THE HIGH COURT OF JUDICATURE AT

ALLAHABAD

CIVIL SIDE

ORIGINAL JURISDICTION

Allahabad, the 25th November, 1980

Election Petition No. 2 of 1980

Sri Ramadhari Shastri.....Petitioner.

Vs.

Sri Ramayan Rai and others.....Respondents.

BY THE COURT

This is an application by Shri Ramayan Rai, the Respondent No. 1 in the Election petition for striking off certain paragraphs of the Election Petition.

Shri Ramadhari Shastri, the petitioner, has filed the Election Petition challenging the election of Shri Ramayan Rai, Respondents No. 1, for Lok Sabha from 41 Deoria, Parliamentary Constituency held in January, 1980. The petitioner

had secured a total of 109,937 votes, whereas Shri Ramayan Rai had secured 110,014 votes. The latter had won the election by 77 votes. In the Election petition the petitioner has alleged that the election of the Respondents No. 1 was void under Sec. 100(1)(d)(iv) of the Representation of People Act as also under Sec. 100(1)(d)(iii) of the Act. He has alleged that the counting was done in a male manner and deliberately engineered to suit the returned candidates, and there was partiality of the District Election Officer, Returning Officer and the Assistant Returning Officer. They had violated the mandatory provisions of Rule 54-A and the bundles of the votes for returned candidate had been improperly made and illegally counted for the Respondent No. 1. Further, a large number of valid votes of the petitioner had been wrongly and illegally rejected and the result of the election had been materially affected. It was further stated that in furtherance of the prospect of the returned candidate, assistance of Government servants was obtained and procured which amounted to a corrupt practice as defined under the Act. Lastly, it was alleged that the application for recounting of votes was wrongly and illegally rejected by the Returning Officer. In support of these grounds the petitioner had set out in his election petition various facts and particulars.

The Election Petition is being contested by the Respondents No. 1 Shri Ramayan Rai. He has also filed the present application under Order VI Rule 16 C.P.C. for striking off paragraph 9 and all the sub-paragraphs thereof, paragraph 10 and its sub-paragraph (ii) and (iii), paragraphs 11 and 1st sub-paragraphs (i) and (ii), paragraph 12 and its sub-paragraphs (i) and (ii) paragraph 13 and its sub-paragraphs (i) and (ii) and paragraph 14 and its sub-paragraphs (i) and (ii). The reason stated for striking off these paragraphs is that the petitioner has not furnished concise statement of material facts and has not furnished the data on which the allegations in the petition are based. It is further stated that the contents of paragraph 9 and its sub-paragraphs as well as paragraph 10 and its sub-paragraphs (ii) and (lii) of the Election Petition are vague and general. Further in respect of paragraph 13 it is stated that full particulars of the corrupt practices have not been stated. He has, therefore, prayed for the striking off the paragraphs mentioned in this application. Lastly, it is stated that after the striking off these paragraphs, the petition would not be left with any triable cause of action and is liable to be dismissed as such.

The petitioner has filed a reply to this application denying the allegations that the petition is vague or lacking in concise statement of material facts and material particulars. It has been stated that none of the paragraphs deserves to be struck off and the petition is triable on the facts alleged and stated in the petition.

I have heard Mr. Faujdar Rai, learned counsel for the Respondent No. 1 and Mr. Krishna Pal Singh for the Petitioner, Mr. Faujdar Rai argued that the law on the subject of striking off the pleadings in Election Petitions is well settled. The Supreme Court has laid down the law to say that where the pleadings do not reveal a concise statement of material facts, such paragraphs have to be struck off. He further argued that the petition was vague and general in nature without revealing the source of the information or as to how the allegations that have been made in the petition came to be known and did not disclose the data on which it was based. An Election Petition, he contended, could not be founded on vague pleas unsupported by material facts. In support of his contention he cited the following decisions of the Supreme Court. AIR 1964 SC 1249, Ram Sewak Yadav Vs. H. K. Kidwai; AIR 1966 SC 773, Dr. Jagit Singh Vs. Giani Kartar Singh; AIR 1969 SC 1201, S. N. Balakrishna Vs. George Fernandez; AIR 1970 SC 276, Jitendra Bahadur Singh Vs. Krishna Behari; AIR 1972 SC 515 Hardwari Lal Vs. Kanwal Singh; AIR 1975 SC 2299, Smt. Indira Nehru Gandhi Vs. Raj Narain; AIR 1976 SC 744, Udhav Singh Vs. M. R. Scindia AIR 1980 SC 206 N. Narayanan Vs. S. Semmalai.

He further contended that the utilisation of the services of a Government servant or a Revenue Officer as a polling agent did not amount to a corrupt practice after the deletion of the 'polling agent' from the Explanation II of Section 123(7) of the Representation of People Act. In support of his contention he cited two decisions of the Supreme Court in the case of AIR 1975 SC 43 (Umed Vs. Raj Singh) and AIR 1975 SC 926 Bachan Singh Vs. Prithvi Singh

Mr. Krishna Pal Singh however contended that the decisions in the case of Ram Sewak Yadav (supra), Dr. Jagjit Singh (supra) and Jitendra Bahadur Singh (supra) referred to by Shri Faujdar Rai, were decisions in cases at the stages which were in respect of counting and scrutiny of votes in appeal from the Election Petitions in the Supreme Court and none of them were at the stage of the settlement of pleadings. He referred to a decision of the Supreme Court in the case of Manphool Singh Vs. Surinder Singh (AIR 1973 SC 2158). It was a case which had gone to the Supreme Court against a decision on an application under Order VI Rule 16 CPC. The decision cited various paragraphs of Election Petition of that case and the Court held that those paragraphs were not vague and provided for a triable cause of action. It was argued that similar is the position in the present case and all necessary materials and data had been given. If there were some particulars lacking it could be furnished on time being granted by the Court. He also referred to the case of Rahim Khan Vs. Khurshid Ahmad (AIR 1975 SC 290) and urged that the giving of the names of all the witnesses in the Election petition was not necessary. He sought to distinguish the other cases cited by Mr. Faujdar Rai and then referred to the cases of H. C. Mohanty vs. Surendra (AIR 1974 SC 47). He further argued that the words "any other agent" used in Sec. 123 (7) of the Act included the polling agent and the procuring of the services of a Government servant as a polling agent would still amount to a corrupt practice.

I now propose to examine the case-law on the subject of pleadings in an Election Petition Under the Act.

The relevant provisions of Sec. 83(1)(a) and (b) of the Act read as follows :—

"83 Contents of petition (1) An election petition (a) shall contain a concise statement of the material facts on which the petitioner relies :

- (b) set forth full particulars of any corrupt practice that the petitioner alleges, including as full statement as possible all the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
- (c) Omitted.

Provided that where the petitioner alleges any corrupt practice, the petitioner, shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2)Omitted.

The above provision makes it clear that an Election Petition must contain a concise statement of the material facts on which the petitioner relies. If it is lacking in material facts, the petition lacks a cause of action, what is meant by material facts has been considered by their Lordships of the Supreme Court in a number of cases some of which were cited by the learned counsel for the respondent at the Bar. In the case of Ram Sewak Yadav (supra) the court was considering an appeal by Ram Sewak Yadav who had challenged the election of the Respondent H. K. Kidwai on the ground of improper reception, refusal and rejection of votes, at the time of counting and the election being materially affected thereby, as in the present case. Their Lordship observed :—

"In paragraph 6(H) it was averred that numerous ballot papers cast in favour of the petitioner were wrongly included "In the bundles of the respondent". In paragraph 6(K) it was averred that due to "a deficiency in the supply of sealing ink, marks on the ballot papers, though not quite clear, yet the marks clearly indicating the intention of the voters, were wrongly rejected as invalid by the Returning Officer." In paragraph 2 it was averred that "the petitioner is confident that if the votes actually cast in favour of the petitioner are counted as votes of the petitioner and if the improperly accepted votes which have been counted in favour of the other respondents are taken out, and if the ballot papers are correctly sorted, counted and bundled the respondent no. 1 will be found to have polled less votes as compared to the petitioner. The Petitioner further submits that the result of the election has

been materially affected by the improper acceptance and refusal of votes, and by the incorrect sorting, counting and bundling of ballot papers. "These averments in the petition for setting aside the election on the ground of improper acceptance or rejection of votes was-vagues, and did not comply with the statutory requirements of Section 83(1)(a)."

It was further observed in the above cases :

"To support his claim for setting aside the election the petitioner has to make precise allegations of material facts which having regard to the elaborate rules are or must be deemed to be within his knowledge. The nature of the allegations, must of course depend upon the facts of each case. But if material facts are not stated he cannot be permitted to make out a case by fishing out the evidence from an inspection of ballot papers.

In the case of Dr. Jagjit Singh (supra) the Supreme Court was considering an appeal by Dr. Jagjit Singh against the decision of the High Court setting aside a decision of an Election Tribunal. In this case too one of the grounds—for challenging the election was that valid votes were improperly rejected and invalid votes were improperly accepted. The averments in that connection in the petition as well as in the application for inspection of ballot papers were as follows :—

- (a) That very large number of votes purported to have been cast in favour of the petitioner had been improperly rejected and that had materially affected the result of the election ;
- (b) That a large number of votes which were invalid had been improperly accepted in favour of respondent No. 1 which also materially affected the result of the election and ;
- (c) That the Returning Officer disclosed a partisan attitude and the counting and examination of votes were done in a very irregular manner.

The Court observed :

"We have referred broadly to the scheme of these rules to emphasise the point that the election petitioner who is a defeated candidate, has ample opportunity to examine the voting papers before they are counted, and in case the objections raised by him or his election agent have been improperly over-ruled, he knows precisely the nature of objections raised by him and the voting papers to which those objections related. It is in the light of this background that S. 83(1) of the Act has to be applied to the petitions made for inspection of ballot boxes. Such an application must contain a concise statement of the material facts."

Learned counsel for the appellant had argued before their Lordship that considering the evidence in the light of the allegations made by the appellant the Tribunal was satisfied that an inspection should be ordered in the interest of justice and the High Court was in error in reversing the order on appeal. The Court observed :—

"We are not prepared to accept this contention. The order passed by the Tribunal clearly shows that the Tribunal did not apply its mind to the questions to whether sufficient particulars had been mentioned by the appellant in his application for inspection. All the Tribunal has observed is that a prima facie case has been made out for examining the ballot papers.....In dealing with this question the Tribunal should have first enquired whether the application made by the appellant satisfied the requirements of S. 83 (1) of the Act, and, in our opinion, on the allegations made there can be only one answer and that is against the appellant. We have carefully considered the allegations made by the appellant in his election petition as well as those made by him in his application for inspection, and we are satisfied that the said allegations are very vague and general, and the whole object of the

appellant in asking for inspection was to make a fishing enquiry with a view to find out some material to support his case that respondent no. 1 had received some invalid votes and that the appellant had been some valid votes."

In paragraphs 13 and 14 of the Election Petition Jitendra Bahadur (supra) had alleged that—

- (1) bundles of votes of either candidates were neither properly made nor properly scrutinised;
- (2) about 5,000 votes of the Congress candidates were improperly rejected ignoring the protests of the election agent of the Congress nominee; and
- (3) invalid votes were counted in favour of the returned candidate and the votes of the Congress candidates were counted for the returned candidate.

The judgment of their Lordships disclosed that in the Election Petition schedule "E" contains certain figures showing the alleged improperly rejected as well as accepted votes pertaining to certain booths. It also showed the number of votes of the congress nominees counted as the votes of the returned candidate but neither the petition nor the Schedule disclosed the basis for arriving at those figures. The Election Petition was filed by person who was neither the candidate nor his election agent. He had not mentioned in the Election petition or in the Schedule that the counting agents had given him information in question on the basis of any record made by them. Their Lordships after referring to the decisions of Ram Sewak Yadav (supra) and Dr. Jagjit Singh (supra) observed.

"The trial court was of the opinion that if an election petitioner in his election petition gives some figures as to the rejection of valid votes and acceptance of invalid votes, the same must not be considered as an adequate statement of material facts. In the instant case from giving certain figures whether true or imaginary, the petitioner has not disclosed in the petition the basis on which he arrived at those figures. His bold assertion that he got those figures from the counting agents of the congress nominee cannot afford the necessary basis. He did not say in the petition who those workers were and what is the basis of their information. It is not his case that they maintained any notes or that he examined their notes, if there were any. The material facts required to be stated are those facts which can be considered as material supporting the allegations made. In other words they must be such facts as to offer a basis for the allegations made in the petition. The facts stated in paragraphs 13 and 14 of the election petition and in Schedule "E" are mere allegations and are not material facts supporting those allegations. This Court in insisting that the election petitioner should state in the petition the material facts was referring to a point of substance and not of mere form. Unfortunately the trial court has mistaken the form for the substance. The material facts disclosed by the petitioner must afford an adequate basis for the allegations made."

In the case of S. N. Balakrishna Vs. Fernandez (supra) Hidavatullah, C. J. laid down a scope and requirement of Sec. 83 of the Act. His Lordship observed.

"The section is mandatory and requires first a concise statement of material facts and then requires the fullest possible particulars. What is the difference between material facts and particulars? The word 'material' shows that the facts necessary to formulate complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. There may be some overlapping between material facts and particulars but the two are quite distinct."—In stating the material facts it will not do merely to quote the words of the section because then the efficacy of the words 'material facts' will be lost. The fact which constitutes the corrupt practice must be

stated and the fact must be correlated to one of the heads of corrupt practice. Just as a plaint without disclosing a proper cause of action cannot be said to be a good plaint, so also an election petition without the material facts relating to a corrupt practice is no election petition at all."—The entire and complete cause of action must be in the petition in the shape of material facts, the particulars being the further information to complete the picture. This distinction brought out by the provisions of Section 86 although the penalty of dismissal is taken away."

His Lordship further observed :—

"One alleges the corrupt practice in the material facts and they must show a complete cause of action. If a petitioner has omitted to allege a corrupt practice, he cannot be permitted to give particulars of the corrupt practice.....Since a single corrupt practice committed by the candidate, by his election agent or by another person with the consent of the candidate or his election agent is fatal to the election, the case must be specifically pleaded and strictly proved. If it has not been pleaded as part of the material facts, particulars of such corrupt practice cannot be supplied later on."

In the case of Hardwari Lal Vs. Kanwal Singh (supra), it was alleged that the respondent committed corrupt practice of obtaining and procuring or attempting to obtain and procure assistance for the furtherance of the prospects of his election from some Government servants named in the petition. The Court while considering the question whether the aforesaid allegations fulfilled the requirements of Sec. 83(1)(a) of Act in regard to material facts observed.

"Thus it had to be alleged as the material facts as to what assistance the appellant obtained or procured or abetted or attempted to obtain how the assistance furthered the prospects of the appellant's election. If all the four variants and ingredients were to be charged against the appellant these had to be set out as statement of material facts in relation to each person."

Further, their Lordship referred to paragraph 16 of the election petition in the above case and observed.

"It is not stated as to what kind or form of assistance was obtained or procured or attempted to obtain or procure. It is not stated in what manner the assistance was for the furtherance of the prospects of the election. The gravamen of the charge of corrupt practice within the meaning of section 123(7) of the Act is obtaining or procuring or abetting or attempting to obtain or procure any assistance other than the giving of vote. In the absence of any suggestion as to what that assistance was the election petition is lacking in the most vital and essential material fact to furnish a cause of action."

Lastly, their Lordships observed that every election petition has to be tried by the High Court as nearly as may be in accordance with the procedure applicable to the trial of suits. A suit which does not furnish a cause of action can be dismissed.

Reference in the above case was made to the case of Manubhai Nandal Amersev Vs. Popetlal Manilal Joshi (AIR 1969 SC 734) where the Supreme Court had laid down that Sec. 83 of the Act was mandatory and particulars of corrupt practice were to be set out in full. No amendment in the shape of particulars of corrupt practice was permissible if the corrupt practice was not previously alleged in the petition. It was further observed that an election petition has the effect of declaring an election void and it was a serious and, as such, it was vital that the corrupt practice charged against the returned candidate should be a full and complete statement of material facts to clothe the petitioner with a complete cause of action and to give an equal and full opportunity to the returned candidate to meet the case and to defend the charges. Mere allegation that the returned candidate obtained or procured or attempted to obtain or

procure assistance would have no meaning unless and until facts were stated to show what that assistance was and how the prospect of election was furthered by such assistances.

In the case of *Smt. Indira Nehru Gandhi Vs. Raj Narain* (supra), Beg J. (as he then was) in paragraph 404 of the report observed.

"It is clear 'the obtaining or procuring or abetting of attempting to obtain or procure, had to take place either by a candidate or by his agent or by somebody 'with the consent of the candidate or his election agent'.....The question of obtaining assistance through 'an agent or *other person with the consent of a candidate or his election agent' could only arise where such a case of obtaining assistance indirectly through other is set up but not otherwise."

In the case of *Udhay Singh vs. Madhav Rao Scindia* (supra), Sarkaria, J. speaking for the Court in regard to requirements of Sec. 83 of the Act in respect of material facts and material particulars observed as follows.

"All the primary facts which must be proved at the trial by a party to establish the existence of a cause of action or his defence, are 'material facts'. In the context of a charge of corrupt practice material facts would mean all the basic facts constituting the ingredients of the particular corrupt practice alleged which the petitioner is bound to substantiate before he can succeed on that charge. Whether in an election-petition, a particular fact is material or not, and as such required to be pleaded is a question which depends on the nature of the charge levelled, the ground relied upon and the special circumstances of the case. In short, all those facts which are essential to clothe the petitioner with a complete cause of action are 'material facts' which must be pleaded, and failure to plead even a single material fact amounts to disobedience of the mandate of Sec. 83(1)(a)."

'Particulars' on the other hand, are 'the details of the case set up by the party'. 'Material particulars' within the contemplation of Clause (b) of Section 83(1) would therefore mean all the details which are necessary to amplify, define and embellish the material facts already pleaded in the petition in compliance with the requirements of Clause (a). 'Particulars' serve the purpose of finishing touches to be the basic contours of a picture already drawn to make it fully more detailed and more informative."

His Lordship thereafter referred to the decision of Ray, J. (as he then was) in the case of *Hardwari Lal Vs. Kanwal Singh* (supra), on the question of distinction between material facts and material particulars. The passage quoted in the above has been referred to in this judgment earlier.

In the case of *Z. B. Bukhari V. B. R. Mehra* (AIR 1975 SC 1788) a question was raised whether the affidavit filed in support of the allegation of corrupt practice was not in proper form. Beg, J. (as he then was) observed.

".....We were not shown any defect of form at all in the affidavit filed. All that was urged is that the relevant affidavit does not give the sources of information so far as corrupt practices under section 123(3) and 123(3A) are concerned. As was pointed out by this Court in *Hardwari Lal Vs. S. Kanwal Singh* (1972) 2 SCR 742 (AIR 1972 SC 515) this is not a defect of the required form but may in suitable cases, form the subject-matter of an objection based on Section 86 and S. 123(7) of the Act relating to supply of material particulars."

In most of the cases referred to above, Supreme Court was considering the question whether the petitioner was entitled to inspection of ballot papers or not and that question was considered in reference to the language of Section 83 of the Act. I am of the opinion that all these decisions are material and relevant to find out whether the allegations made in this petition comply with the provisions of Sec. 83(1) (a)(b) of the Act.

Reference has already been made the case of *Manphool Singh Vs. Surinder Singh* (supra). In this case the successful candidate had gone up to the Supreme Court against an order passed by a learned single Judge of the High Court trying the election petition filed by respondent *Surinder Singh*. The returned candidate was aggrieved by the order, which permitted the trial of the election petition on various issues which, according to him were not triable, as there was no compliance with the provisions of Sec. 83 of the Act. Various paragraphs of the election petition were quoted to consider whether the allegations in the election petition were vague or general in the nature or lacked material particulars. The Court ultimately observed.

"All that we wish to emphasise at this stage is that it could not be said that the allegations in the election petition are vague or general in nature or lack material particulars and are as such liable to be struck down as not raising a triable issue."

I must say with great respect of their Lordships that the view taken in the above case has not been approved or followed in any subsequent decision of their Lordships of the Supreme Court. Except the above quoted observations, the tests laid down by their Lordships in various cases cited above have not been discussed in the above judgment.

Bearing in mind the principles laid down in the above cases, let me now examine whether the allegations in paragraphs 9, 10 (i), (iii), 11(i), (ii), 12(i) (ii), 13(i), (ii) and 14(i), (ii) of the Election Petition contain the relevant and material facts constituting a complete cause of action for the trial of this Election Petition.

Paragraph-9(i) :

Paragraph-9(i) of the Election petition contains allegation about the party known as Janata (S) and its policies in the State of U.P. and about the attitude of other parties and leaders towards it. Further, allegations are that by the time the counting started on the 7th January, 1980 announcements about the results were being made over All India Radio and this prompted the District Election Officer and Collector, Returning Officer and the Assistant Returning Officer, who had definite bias against the petitioner's party, to secure the victory of the returned candidate by hook or crook so that their cherished aims might be fulfilled. This paragraph is on the basis of personal knowledge. It cannot, therefore, be said that the source of knowledge is not mentioned. The question as to how and from where did he obtain the personal knowledge can only be determined when evidence is led.

Paragraph-9(ii) :

This sub-paragraph is in regard to counting of votes in Fazil Nagar and Kasia Assembly segments which were changed at the last moment without prior notice of the petitioner and the counting was done in a very narrow open Verandah which was open to access for all and sundry. This sub-paragraph has been sworn on the basis of personal knowledge. It cannot, therefore, be said that the source of knowledge has not been mentioned.

Paragraphs 9(iii) to 9(xiii) :

These sub-paragraphs relate to the arrangements made for the counting of votes on the date of counting and the allegations made in these sub-paragraphs are based on personal knowledge. Therefore, it cannot be said that the source of knowledge has not been mentioned. Paragraph 9(iii) to 9(xiii) are therefore not liable to be struck off.

Paragraph 9(xiv) :

The allegation in this sub-paragraph is that on account of huge rush and less accommodation and due to connivance of Assistant Returning Officer and Returning Officer the counting of votes was just reduced to empty formality in Fazil Nagar segment. This sub-paragraph has been sworn on the basis of information received from the agents and workers of the petitioner. There is no mention in the petition of the names of the agents and workers of the petitioner, who had given him the information mentioned in this sub-paragraph. It was necessary for the petitioner to

have furnished the particulars of names of such agents and workers. In the case of Jitendra Bahadur Singh Vs. Krishna Bahadur & other (supra), their Lordship laid down that where the petitioner did not disclose in the petition the basis on which he arrived at the figures and his bald assertion that he got those figures from his counting agents did not constitute the necessary basis when he did not say who those workers were and what was the basis of their information. Similar is the petition here. The allegations that there was huge rush and less accommodation where the counting was going on and due to connivance of the Assistant Returning Officer and Returning Officer the counting of votes was reduced to empty formality were all based on information from his agents and workers. There is no mention as to who gave these informations to the petitioner and when. The allegations made in this sub-paragraphs are vague and are liable to be struck off.

Paragraph 9(xv) :

In this sub-paragraph allegations have been made that the counting agents of the petitioner were not allowed to sit by the side of the table to watch the proceedings of the ballot papers. This sub-paragraph has been sworn on the basis of information received from the agents and workers. I would take it that the agents would mean the counting agents. It is true that the petitioner has not mentioned their names, but, in my opinion this would not be vague, for the names of the counting agents are discernible from the list of counting agents furnished to the Returning Officer on the date of counting. This sub-paragraphs is, therefore, not liable to be struck off.

Paragraph 9(xvi) :

The allegation in this sub-paragraph are that the Assistant Returning Officer and Returning Officer gave a free hand to the staff to accept or reject the ballot papers at their sweet will. This was seriously objected by the agents of the petitioner but to no effect. This sub-paragraph has been sworn on the basis of information received from the petitioner's agents and workers. However, no particulars of the agents and workers have been given nor have they been named. As a matter of fact, the second sentence of this sub-paragraph mentions agent and not agents. The name of this agent has also not been given when a serious allegation has been made. The same principle as laid down in the case of Jitendra Bahadur Singh Vs. Krishna Bahadur & others, (supra) would be applicable. This sub-paragraph is, therefore, liable to be struck off.

Paragraph 9(xvii) :

The allegation in this sub-paragraph is that the counting was not done in accordance with the provisions of the Act, Rules and Orders framed thereunder. Although the specific orders have not been mentioned, but the source of the allegation is based on legal advice. Consequently, this sub-paragraph cannot be ordered to be struck off as vague on account of non-disclosure of source.

Paragraph 9(xviii) :

The allegation in this sub-paragraph is that the ballot papers were not properly scrutinised by the counting staff and repeated protest by the counting agent of the petitioner was of no avail. This sub-paragraph has been sworn on the basis of information received from the petitioner's agents and workers, but the petitioner did not disclose the name of such agents and workers. The serious allegation was being made against the counting staff, but the name of the person. Who gave the information to the petitioner has not been mentioned. Further, the allegation in this sub-paragraph does not disclose as to when the protest was made and to whom. The allegations in this sub-paragraph are, therefore, vague and also bad for non disclosure of the source. This sub-paragraph is also liable to be struck off.

Paragraph 9(xix) :

The allegations in this sub-paragraph are that a band of Congress (I) workers, outsiders and ruffians had entered the counting arena and created noise and confusion and interference in counting with the result that impartial counting of votes become impossible. In the state of confusion and manipulation from 5 P.M. to 10 P.M. about 1206 GI/80-2

55 ballot boxes of Fazil Nagar segment were opened and about twenty thousand votes were handled one way or the other. This sub-paragraph has been sworn on the basis of personal knowledge. The petitioner has not given any basis or material for saying how he recognised the intruders as Congress(I) workers or outsiders or ruffians. He does not name any body. His further allegation that about 55 ballot boxes of Fazil Nagar segment were opened and twenty thousand votes were handled one way or the other is much too vague. In the case of Jitendra Bahadur Singh Vs. Krishna Bahadur & others, (supra), their Lordships of the Supreme Court observation, "In the instant case, apart from giving certain figures whether true or imaginary, the particular has not disclosed in the petition the basis on which he arrived at those figures" Similar is the position, here. The petitioner does not state on what basis the figure of twenty thousand was arrived at. He does not say that he maintained any notes. It will, thus, be seen that the materials supporting the above allegation are not there. He does not say that these ballot papers were illegally counted for one party or were not counted for the party for whom it was cast. In any event the allegation handling one way or the other's is vague. This sub paragraph, therefore merits to be struck off.

Paragraphs 10(ii) & 10(iii) :

In paragraph 10(ii) of the election petition, the petitioner has stated that he believes that 249 postal ballot papers were never received in time and had been deliberately inserted at the bag end of the counting and were illegally counted. In paragraph 10(iii) it has been stated that the petitioner believes that if these postal ballot papers had been received within time and prior to the commencement of the counting of votes, they would have been counted first. These two sub-paragraphs have been sworn on the basis of personal knowledge. These sub-paragraphs begin with the words 'petitioner believes', whereas in the verification clause the contents of these sub-paragraphs are said to be true to my own knowledge, what the petitioner has stated in these two paragraphs is his belief. He has not given any material to show as to why he formed the belief which he has stated. He has not stated as to when these ballot papers were received. He has not stated how did he believe that these 249 postal ballot papers were false and spurious nor has he given any material what lends him to believe that these were deliberately inserted at the bag end of the counting of votes. These are absolutely vague allegations. Consequently, these two sub-paragraphs are liable to be struck off.

Paragraphs 11 (i) & (ii) :

The allegations in these two sub-paragraphs are in support of ground C Viz non compliance with the provisions of the Act, Rules and Orders and the election was void under Section 100(4)(d)(ii) of the Act. In sub-paragraph (i) it is stated that most of the counting supervisors of the Fazil Nagar Assembly segment belonged to medical and health services of the State. Their names have not been mentioned in the Election petition. It is then stated that the returned candidate had been a state Minister in the U.P. Government and these persons were under his influence. There is a further allegation that most of them i.e. the counting supervisors, belonged to upper caste and had their own axe to grind. Neither their names nor their caste have been mentioned. The allegation thereafter is that while counting of votes was in progress in last 88 boxes of Fazil Nagar Assembly segment, the ballot papers were sorted out candidatewise and bundles of 50 ballot papers were made. It is then stated that "these persons in connivance with their counting assistants wrongly and illegally put about 500 votes of the petitioner of Fazil Nagar Assembly segment in various bundles of returned candidate." The ballot papers of the petitioner were concealed by keeping on top and bottom of bundle a few ballot papers of the returned candidate and in between these that of the petitioners were placed. This sub-paragraph had been verified on the basis of information received from his agents and workers. It may be mentioned here that the petitioner has not made any mention in the Election petition of the names of these counting supervisors or the counting assistants, who committed the above irregularity and it is however significant that the petitioner has not divulged in his Election petition the names of his agent and workers from whom he got the above information. Once

the petitioner verifies a particular allegation on the basis of information received from his workers and agents it is incumbent upon him to divulge their names and the source of their information. According to the verification the petitioner had no personal knowledge of the aforementioned allegations. According to the averment made in the Election Petition he got the information from his workers and agents. Even the basis on which the above averment has been made is not disclosed. There is no mention of any table number where such irregularity took place.

In paragraph 11(ii) of the Election petition, it is stated that the aforesaid 88 ballot boxes related to polling booths, No. 72 to 160 of Fazil Nagar Assembly segment. "All the bundles of this type with votes were wrongly counted for the returned candidate." This sub-paragraph has also been verified on the basis of the information received from the petitioner's agents and workers. The names of all those workers or agents, who reported this irregularity to the petitioner, have not been furnished nor has been given the basis for making those allegations. Neither has the petitioner mentioned the table number on which the irregularity was committed nor were the names of those counting supervisors and counting assistants given, who had wrongly counted the votes. Consequently, the allegations remain vague and incomplete. The following observations by their Lordships in the case of Jitendra Bahadur Singh vs. Krishna Bahadur (supra) is significant. Their Lordships further observed.

"His bald assertion that he got those figures from the counting agent—cannot afford the necessary basis. He did not say in the petition who those workers were and what is the basis of their information. It is not his case that they maintained any notes or that he examined their notes, if there were any."

The principle laid in these observation has full application to the present case. In other words, the contents of paragraph 11(i) and (ii) are mere allegations and not material facts in support of these allegations. Consequently, as observed by their Lordships a petition devoid of material facts cannot go to trial. Paragraphs 11(i) and (ii) are vague and devoid of material facts and, therefore, deserve to be struck off.

Similar would be the position in regard to paragraph 11(iii) also. It is also liable to be struck off for the same reasons.

Paragraphs 12(i) & (ii) :

The allegations in paragraph 12(i) of the Election Petition refer to the counting of votes of Fazil Nagar Assembly segment where 120 votes of the petitioner were wrongly rejected as invalid. It was stated that although the voters had placed the marks in such a way that a major portion of mark was visible in the place of vote-mark for the petitioner, yet these votes were rejected as invalid. It is further stated that these votes related to ballot papers of polling booths No. 9, 12, 30, 44, 60, 81, 85, 106, 109, 121, 137 and 156.

Similarly in sub-paragraph (ii) it was stated that 150 valid votes of the petitioner of Kasia Assembly segment were wrongly and illegally rejected as invalid on the ground that the ballot papers were not marked by the instrument supplied. It was further stated that by constant use and pressure by the voters, the rubber of the instrument was somehow removed and the marking on the ballot papers was made by naked instrument. The oral protests made by the counting agents of the petitioner was ignored to favour the returned candidate. These rejected votes related to ballot papers of polling booths No. 120, 123, 126, 110, 83, 93, 46 and 40. The verification of these two sub-paragraph is again on the information received from the petitioner's agents and workers. It will be noticed that particulars have not been given as to the source of information. The name of the informant, namely, the counting agents, has not been given. The basis for arriving at the figures has also not been mentioned. It has not mentioned whether the particular counting agent had kept any notes. What is still more significant is that the table number where this irregularity was committed has not been mentioned. There is no basis

of knowing how these figures 120 and 150 used in sub-paragraphs (i) and (ii) were thus arrived at. The observations in the case of Jitendra Bahadur Singh (supra) quoted in the previous paragraph. Would be fully applicable to these two sub-paragraphs. Further, the allegation that the rubber of the instrument by which the voter expressed his intention had been removed has not been supported by any material. There is no basis for the allegation that the rubber stamp of the voting instrument had been removed by constant use and pressure by the voters has not been furnished. Did this happen in any particular booth or in all the booth? How and who had given this information to the petitioner has also not been disclosed. Lastly, the allegation that oral protests were made on behalf of the petitioner by his counting agents but there is no indication in the Election petition as to who those counting agents were and as to when and with whom did they lodge their protests? It will, therefore, be seen that the contents of the paragraph are vague and the material facts are not there. Applying the Principle as stated by their Lordships in the case of Jitendra Bahadur Singh (supra) these two sub-paragraphs of paragraphs 12 are liable to be struck off.

Similarly would be the position in regard to paragraphs 12(iii), (iv) and (v). For the same reasons these sub-paragraphs are also liable to be struck off.

Paragraph 13(i) :

It is stated in paragraph 13 that the contents of paragraph 13(i) are a concise statement of the material facts in support of ground i.e. relate to a corrupt practice having procured the assistance of Government servant. It is further stated that the election of the returned candidate was void under Sec. 100(1)(d)(ii) of the Act. The allegations in paragraph 13(i) are that one Kripa Narain Lal, resident of village paras Khand in the Kasia Assembly segment was a Government servant and was employed as Amin in the Revenue Department under the Collector of Deoria. The returned candidate and his election agent obtained the assistance of the said Kripa Narain Lal for the furtherance of his election prospects and appointed him as polling agent at polling booth no. 21, paras Khand and he had actually worked for the returned candidate. It was further stated that the villages under this polling booth were the strong hold of the Janata(S) and the returned candidate would have got no votes but due to Kripa Narain Lal he secured 134 votes. The further allegation that Kripa Narain Lal had influenced the voting at the adjoining polling booth No. 22 where the returned candidate secured 80 votes. The allegations of this paragraph were verified on the basis of personal knowledge. Learned counsel for the respondent contended that full particulars of the corrupt practice had not been given. It is not stated how Kripa Narain Lal had secured votes for the returned candidate while working as a polling agent in polling booth No. 21 and also in polling booth No. 22. He has also not disclosed the basis for stating that the returned candidate had secured 134 votes in booth No. 21 and 80 votes in booth No. 22. Apart from these learned counsel contended that in view of the amendment to the provisions of Section 123(7) of the Act Explanation 2 acting as a polling agent did not amount to a corrupt practice. He referred to the cases of Umed vs. Raj Singh (AIR 1975 SC 43) and Bachan Singh Vs. Prithvi Singh AIR 1975 SC 926). Learned counsel for the petitioner contended that Kripa Narain Lal was a Government servant holding the rank of Amin in the Revenue Department of the State Government. He would, therefore, be a Revenue Officer within the meaning of Section 123(7) (f) of the Act. Any assistance of such an officer would amount to a corrupt practice within the meaning of Sec. 123(7) of the Act. He further contended that Explanation 2 would have no application in his case. In my opinion, the law laid down in the cases of Umed vs. Raj Singh (supra) and Bachan Singh v. Prithvi Singh (supra) would have application to the facts of the present case also. In the above two cases the person who was said to have assisted the returned candidate was termed as a member of the Armed Forces of the Union. Section 123(7) makes it a corrupt practice if a candidate obtains or procures or abets or attempts to obtain or procure either himself or through his agent or by any other person any assistance for the furtherance of the prospects of the candidate's election from the officers and persons mentioned in clauses (a) to (g) therein. There can be no distinction for the purposes of Section 123(7) between the members

of the Armed Forces of the Union and the Revenue officer of the State Government but Explanation 2 before its amendment read as follows :—

"Explanation 2. For the purposes of clause (7), a person shall be deemed to assist in the furtherance of the property of a candidate's election if he acts as an election agent or a polling agent or a counting agent of that candidate."

By Sec. 53 of the Representation of People (Amendment) Act, 1966 the words "or a polling agent or a counting agent" were deleted. Thus the result was that if a person acted as a polling agent or a counting agent that would not be deemed to assist in the furtherance of the prospects of a candidate's election. Their Lordships in a formationed two decisions held that after the deletion of the words "or a polling agent or a counting agent" from Explanation 2 of Section 123(7) by the amending Act 47 of 1966 a member of the Armed Forces of the Union merely by acting as a polling agent is not deemed to assist in the furtherance of the prospects of a candidate's election as contemplated by Section 123(7). The same view would be applicable in the case of the Amin. In the present case. In this view of the matter the allegation that there was a corrupt practice of taking assistance from a Government servant is of no assistance to the petitioner.

Further it will be noticed that the petitioner has not stated as to how Kripa Narain Lal had furthered the election prospects of the returned candidate in polling booth No. 21 or in the adjoining polling booth No. 22. Nothing has been stated as to how he managed to get 134 and 80 votes in these two booths for the returned candidate. Nothing has also been mentioned as to the basis of arriving at these figures. Since nothing has been stated in the Election Petition that Kripa Narain Lal the Amin helped or assisted the Respondent No. 1 in furtherance of election prospects the allegations made in the petition are vague and incomplete. This paragraph does not state the material facts and as such is liable to be struck off.

Paragraphs 14(i) & (ii)

The allegations in these two sub-paragraphs are in support of the ground F which is that the provisions of Rule 63 of the Conduct of Election Rules were grossly violated and the re-count application of the petitioner was illegally, arbitrarily and maliciously rejected in utter disregard of the Act, Rules and orders made thereunder. This paragraph has also been verified on the basis of personal knowledge. The allegation in sub-paragraph (1) that the District Election Officer, Returning Officer and Assistant Returning Officer were all biased against the petitioner and his party. The basis for such an

allegation is not to be found in the Election Petition. Necessary particulars in this regard are lacking. Further allegation was that there was having voting and the mark in of difference being only 77 votes, the recount ought to have been ordered specially when the narrow lead was manipulated. No material has been furnished as to how the lead was manipulated and by whom or through whom. In the absence of material facts in regard to the allegation of bias and manipulation the allegations in sub-paragraph (i) are vague and lacking in material facts. A Petition wherein only held allegation have been made without disclosing the basis or giving necessary material and particulars is not liable to be tried. Paragraph 14(1) of the Election Petition is liable to be struck off.

In regard to sub-paragraph (ii) of paragraph 14 the allegation was that Sri Mohan Singh, a State Minister of U.P. Government had told the petitioner at Lucknow on 4-2-1980 that the District Election Officer had admitted to him that at the end of counting he had advised for recount but at the instance of Sri Dhananjai Singh, Assistant Returning Officer was not acceded to. This sub-paragraph has been sworn on the basis of personal knowledge, but the contents of the paragraph only show that it was based on the information from Sri Mohan Singh. This sub-paragraph only introduces a fact that the Returning Officer was inclined to order a recount but that was not done at the instance of the Assistant Returning Officer. This by itself does not amount to a material fact nor does it assist in supplying the material facts in support of sub-paragraph (i) of paragraph 14. Since paragraph 14(i) has been ordered to be struck off paragraph 14(ii) cannot stand on its own. This will also have to be ordered to be struck off.

In view of my conclusion above, paragraphs 9(xiv), 9(xvi), 9(xviii), 9(xix), 10(ii) and (iii) 11(i) and (ii), 12(i) and (ii), 13(i) and 14(i) and (ii) are liable to be struck off. For the reasons Indicated in this order, paragraphs 11(iii), 12(ii), (iii) (iv) and (v) are also liable to be struck off.

In the result, therefore, the application is allowed in part and the afore mentioned paragraphs 9(xiv), 9(xvi), 9(xviii), 9(xix), 10(ii) and (iii) 11(i) and (ii), 12(i), and (ii), 13(ii) and 14(i) and (ii) are ordered to be struck off. After the striking off the aforesaid paragraphs, no triable cause of action survives. Consequently, the Election Petition itself will have to be dismissed for want of triable cause of action.

[No. 82/UP/2/80 (Ald.)]

Date : 25-1-80.

By Order,
K. GANESHAN, Secy.
Election Commission of India

